

EXHIBIT 13

From: Richard Levin <RLevin@cravath.com>
Sent: 4/22/2009 3:38:48 AM +00:00
To: "Hirschfield, Marc E." <BH/NEW YORK/RECIPIENTS/MHIRSCHFIELD>
"Cymrot, Mark" <BH/WASHINGTON DC/RECIPIENTS/MCYMROT>;
CC: Ronald Rolfe <RRolfe@cravath.com>; "Lucchesi, Thomas"
<BH/US/BAKER & HOSTETLER RECIPIENTS/CLEVELAND/LUCCHESI>
Subject: Re: Optimal
Attachments: Optimal-Picard Settlement Agrmt 4-21.doc; Opt-BLMIS Settle Agrmt
Comparison 4-21.pdf

Marc:

Following our discussion yesterday and Ron's discussion with Mark, attached is a revised draft of the Settlement Agreement, incorporating the things that you and I discussed and the versions of paragraphs P, 7 and 14 that Ron sent to Mark earlier today, along with a comparison of this draft against the draft that you sent on last Friday.

Please note that we are still awaiting your confirmation of most of the numbers and our confirmation of the Arbitrage (negative) balance amount, for which we are waiting for documentation for three transfers that I have requested from you. We are also awaiting your further thinking on the Equal Treatment provision (paragraph 13). I think those are the only open items in the Agreement. I believe we still intend to provide you some information about the flow of Optimal customer redemptions from the Optimal Funds in the 90 days or so before Dec. 11. Please let me know if there are any other open items that you are aware of.

Please also note that this redraft has not been reviewed internally or by our clients and so remains subject to further comment. Nevertheless, in the interest of time and of giving your team a complete package (in addition to the paragraphs that Ron sent earlier today), I wanted to get this off to you tonight. We look forward to hearing from you soon on the open items and on this redraft.

Best regards,
Rich

"Hirschfield, Marc E."
<mhirschfield@bakerlaw.com>

04/17/2009 01:24 PM

To <RLevin@cravath.com>, <RRolfe@cravath.com>
cc "Lucchesi, Thomas" <tlucchesi@bakerlaw.com>, "Cymrot, Mark"
<MCymrot@bakerlaw.com>
Subject Optimal

Rich and Ron,

Attached are our preliminary comments on the draft settlement agreement. A few things to note for you: (a) since our conversation last week, SIPC has requested that all settlement agreements require that claimants file claims as opposed to the agreements deeming the claims to have been

filed. Accordingly, we have modified the agreement to provide for you to file claims; (b) we would be amenable to your offsetting from your payments to us the \$500,000 SIPC advances. Please let us know if you would like to do that; (c) we are still working our way through the MFN provision and have not commented on it in this draft. We hope to get your comments on that next week; (d) we are still conducting our diligence but what we have done thus far has raised a few questions for which we will need answers before we can proceed with the settlement. Mark will be in touch next week with Ron to discuss this; and (e) the attached has not been reviewed by Irving and accordingly, the draft and the settlement remains subject to his review.

Please let us know if you have any questions.

Best regards,

Marc

My Bio	Web site	V-card
T 212.589.4610 F 212.589.4201 www.bakerlaw.com	Marc Hirschfield mhirschfield@bakerlaw.com Baker & Hostetler LLP 45 Rockefeller Plaza New York, New York 10111	

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[attachment "DV_Comparison_#300007003v1_SIPC_ - Optimal Settlement Agreement-#300007003v3_SIPC_

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